

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

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RICHARD JAMES JOHNSON, PRO SE, §  
TDCJ-CID #1005689, §  
Previous TDCJ-CID #616683, §  
Previous TDCJ-CID #581721, §  
§  
Plaintiff, §  
§  
v. § 2:07-CV-0191  
§  
JOE GRIMES ET AL., §  
§  
Defendants. §

**ORDER REVOKING PAUPER STATUS AND ORDER OF DISMISSAL**

Plaintiff RICHARD JAMES JOHNSON, acting pro se and while a prisoner incarcerated in the Texas Department of Criminal Justice, Institutional Division, has filed suit pursuant to Title 42, United States Code, Section 1983 complaining against the above-referenced defendants and has been granted permission to proceed in forma pauperis under the 28 U.S.C. § 1915(g) exception to the three strikes bar. Plaintiff's claims in this cause which are duplicative of those asserted in Cause No. 2:07-CV-0074 were dismissed with prejudice as malicious on January 28, 2009; and plaintiff's claims against defendants KELLY and GERRALDO were dismissed without prejudice for failure to prosecute on March 30, 2010.

On September 2, 2010, a Report and Recommendation was issued by the United States Magistrate Judge recommending plaintiff's claims be dismissed with prejudice as frivolous and for failure to state a claim on which relief can be granted, and, in, addition, that all of plaintiff's claims be dismissed for failure to show plaintiff was in imminent danger of serious physical injury at the time he filed the instant suit in federal court.

The period for response has expired, and no objections have been filed by plaintiff.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

In light of the determination that plaintiff was not in imminent danger of serious physical injury at the time he filed this lawsuit,

IT IS HEREBY ORDERED that PLAINTIFF'S PAUPER STATUS IS REVOKED and the instant Civil Rights Complaint filed pursuant to Title 42, United States Code, section 1983 is FOR FAILURE TO PAY THE FILING FEE. IN THE ALTERNATIVE, the Court finds DEFENDANTS HAVE SHOWN THEY ARE ENTITLED TO QUALIFIED IMMUNITY AGAINST PLAINTIFF'S CLAIMS AND PLAINTIFF'S CLAIMS ARE DISMISSED WITH PREJUDICE. IN THE FURTHER ALTERNATIVE, plaintiff's claims are DISMISSED WITH PREJUDICE as FRIVOLOUS and FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Any pending motions are DENIED.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record.

It is SO ORDERED.

Signed this the 20<sup>th</sup> day of September, 2010.

/s/ Mary Lou Robinson  
MARY LOU ROBINSON  
United States District Judge